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Dated this 8th day of October, 1946.

DOUGLAS F. SMITH,
Attorney for The Atchison, Topeka and Santa Fe Railway Co., et al.

FILE COPY

IN THE

Supreme Court of the United States

OCTOBER TERM, 1946

Nos. 343, 344, 345

THE STATES OF NEW YORK, DELAWARE, *et al.*,
Appellants,

v.

THE UNITED STATES OF AMERICA, *et al.*,
Appellees.

THE HONORABLE HORACE A. HILDRETH, GOVERNOR OF THE STATE OF MAINE, *et al.*,
Appellants,

v.

THE UNITED STATES OF AMERICA, *et al.*,
Appellees.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, *et al*,
Appellants,

v.

THE UNITED STATES OF AMERICA, *et al.*,
Appellees.

MOTION FOR CONTINUANCE OF ARGUMENT

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Of Counsel for States of New York, New Jersey, Pennsylvania, Maryland, Delaware, Ohio, Indiana, Michigan and Wisconsin

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THE STATES OF NEW YORK, DELAWARE, *et al.*,
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THE ATCHISON, TOPEKA AND SANTE FE RAILWAY COMPANY, *et al.*,
Appellants,

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Appellees.

APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

MOTION FOR CONTINUANCE OF ARGUMENT

Now come the States of New York, New Jersey, Pennsylvania, Maryland, Delaware, Ohio, Indiana, Michigan, and Wisconsin, appellants, and respectfully show:

1. These cases are now assigned for argument February 10, 1947.

2. In these suits appellants seek to have enjoined certain orders of the Interstate Commerce Commission in a proceeding before the Commission entitled *Class Rate Investigation, 1939* and *Consolidated Freight Classification*, Docket Nos. 28300 and 28310 upon the Commission's docket, 262 I. C. C. 447, 264 I. C. C. 41. These appeals are from a judgment and decree of a specially constituted district court of three judges denying the relief prayed for.

3. As one of the grounds for annulling, setting aside and enjoining the Commission's orders, appellants have alleged that the orders are without support in and are contrary to the evidence before the Commission. For this reason the entire record of the evidence before the Commission, consisting of over 5,400 typewritten pages of testimony and approximately 12,000 pages of exhibits, was offered in evidence in the District Court and is part of the record before this Court. Because examination of this evidence is essential to the consideration of the cases and of appellants' contentions, it was determined that the entire record should be printed in order to be readily available to the Court. For this same reason appellants' brief, in order adequately to present their case to the Court, must in considerable part be based upon and must discuss and make reference to this record.

4. So far appellants have not received the printed record or any part thereof. It is understood that it will be a record of several volumes. Until it is received preparation and completion of appellants' brief will be impossible. Even after the receipt of the printed record, its very size will make it inevitable that with all diligence some time will be necessary to complete the brief in the light there-

of. Although appellants have, of course, done preliminary work on their brief and have proceeded as far as they can without the printed record, it will be impossible to complete the brief in such form as to do justice to the importance of the issues and the great financial and economic interest therein of the appellant States and their citizens in the time now available, if the cases are to be argued on February 10, 1947.

5. Appellants do not file this motion for purposes of delay, but only in the interest of an adequate presentation which will be helpful to the Court and will do justice to the interests of their citizens, in view of the many millions of dollars of additional freight charges to which enforcement of the Commission's orders would subject them. Appellants seek only such continuance as is necessary to this end, suggesting that if the printed record is to be received within the next five days the argument be deferred only for a period of two weeks.

WHEREFORE, appellants pray that the argument herein now fixed for February 10, 1947 be continued to a later date, and if the printed record is to be delivered within five days from this date, that such continuance shall be for a period of two weeks or to the earliest date thereafter compatible with the convenience and docket of this Court.

Respectfully submitted,

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KENNETH L. SATER,
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Columbus 15, Ohio.
Of Counsel for States of New York,
New Jersey, Pennsylvania,
Maryland, Delaware, Ohio,
Indiana, Michigan and Wisconsin.

Dated: January 9, 1947.

Certificate of Service

I hereby certify that true copies of the foregoing Motion for Continuance were this day mailed to the following counsel of record in the said causes:

Tom C. Clark, Attorney General
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Washington, D. C.

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Department of Justice
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Henry E. Foley
10 Post Office Square
Boston, Massachusetts

Dated this 9th day of January, 1947.

PARKER MCCOLLESTER
Of Counsel for Above Named
Appellant States

FILE COPY

Office - Supreme Court, U. S.
FILED
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CHARLES ELMORE CROPLEY
CLERK

In The Supreme Court of The United States

No. 344

HORACE A. HILDRETH, GOVERNOR OF THE STATE OF MAINE, CHARLES M. DALE, GOVERNOR OF THE STATE OF NEW HAMPSHIRE, et al

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, et al

MOTION TO SUBSTITUTE PARTIES

Now come The Honorable Ernest W. Gibson, Governor of the State of Vermont; The Honorable Robert F. Bradford, Governor of The Commonwealth of Massachusetts; and The Honorable James L. McConaughy, Governor of the State of Connecticut, and respectfully move that they be substituted as appellants herein for their respective predecessors in office, namely: The Honorable Mortimer R. Proctor, The Honorable Maurice J. Tobin, and The Honorable Raymond E. Baldwin, respectively, who are now among the appellants of record herein, and in support of their said Motion respectfully represent to this Honorable Court as follows:

1. This proceeding is an appeal from the final decree and order of the District Court of the United States for the